



## **DEFENSE NUCLEAR FACILITIES SAFETY BOARD**

### **10 CFR Part 1704**

**[Docket No. DNFSB-2021-0001]**

#### **Government in the Sunshine Act**

**AGENCY:** Defense Nuclear Facilities Safety Board.

**ACTION:** Direct final rule; confirmation of effective date.

**SUMMARY:** The Defense Nuclear Facilities Safety Board (DNFSB or Board) is confirming the effective date of November 29, 2021, for the direct final rule that was published in the Federal Register on August 30, 2021. The direct final rule amended the DNFSB's regulation implementing the Government in the Sunshine Act to include changes included in the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (NDAA).

**DATES:** The effective date of November 29, 2021, for the direct final rule published August 30, 2021 (86 FR 48295), is confirmed.

**ADDRESSES:** *DNFSB's General Counsel Webpage:* Go to <https://www.dnfsb.gov/office-general-counsel> and click "Rulemaking-DNFSB-2021-0001" to access publicly available information related to this rulemaking.

**FOR FURTHER INFORMATION CONTACT:** Eric Fox, Associate General Counsel, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW., Suite 700, Washington, DC 20004-2901, (202) 694-7000.

**SUPPLEMENTARY INFORMATION:** On August 30, 2021 (86 FR 48295), the DNFSB published a direct final rule amending its regulations in part 1704 of title 10 of the Code of Federal Regulations implementing the Government in the Sunshine Act. The Sunshine Act generally requires Board meetings to be open to public observation unless certain exemptions apply. The NDAA added a provision to the Atomic Energy Act of

1954 (AEA) that permits the Board to hold nonpublic collaborative discussions without following the requirements of the Sunshine Act, so long as certain requirements are met. The Board published this direct final rule to revise the Board's Sunshine Act regulations consistent with the new AEA provisions for nonpublic collaborative discussions.

In the direct final rule, the DNFSB stated that if no significant adverse comments were received, the direct final rule would become effective on November 29, 2021. The DNFSB received one comment. The DNFSB evaluated the comment against the criteria described in the direct final rule and determined that the comment was not significant and adverse. Specifically, the commentator opposed the legal authority granted in the NDAA, not the implementation of said authority in the DNFSB's regulations. The comment was therefore out of scope, and the direct final rule will become effective as scheduled. The comment is publicly available as part of the rulemaking docket at <https://www.dnfsb.gov/office-general-counsel>.

Dated: October 13, 2021.

**Joyce Connery,**  
Chair.

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